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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,334	11/20/2001	Yoram Gill	0150US-Gill	9942

23521 7590 01/31/2003

SALTAMAR INNOVATIONS
30 FERN LANE
SOUTH PORTLAND, ME 04106

EXAMINER

GARBE, STEPHEN P

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,334

Applicant(s)

GILL, YORAM

Examiner

Stephen Garbe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-15, 17-21 and 23-29 is/are rejected.
- 7) ☒ Claim(s) 9, 16 and 22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other: _____

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1. Claim 1 is objected to because "close" in line 7 should be changed to "closed."
2. Claim 5 is objected to because "acts" should be changed to "act."
3. Claims 6 and 7 are objected to because "cumulative" should be substituted for "accumulative."

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no enabling description of a rod having a lateral protrusion that is resilient, especially in view of the fact that the specification (page 6) states that the sealing device is made from a rigid polymer and the rod is part of the sealing device. Thus, there is no enabling disclosure explaining the construction of a rigid rod having a resilient end. No new matter may be added.

6. The specification is objected to as failing to provide a discussion, with reference to the drawings, of a rigid rod having a resilient end. No new matter may be added.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is indefinite because it appears that the phrase

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"long as" should be inserted after "at least as" in the second line. This claim is further indefinite because it is impossible for the lateral opening to be longer than the device, i.e. the opening cannot extend out into space. Thus, it is unclear what, if anything, this claim adds to the sealing device of claim 1.

9. Claims 10, 12, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "such as" renders these claims indefinite because it is unclear whether the limitations which follow it are part of the claimed invention. See MPEP § 2173.05(d).

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, Published UK Application Number 2,266,701. Note Figures 7 and 10 which illustrate all claimed features including a closed left end and an open right end.

Regarding claim 4, note the last paragraph on page 5.

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1, 5-8, 13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Ward et al., United States Patent No. 4,040,562 (Ward) or Thatcher, United States Patent No. 5,941,640 in view of Johnson, Published UK Application Number 2,266,701. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Johnson's sealing device to close either Ward's or Thatcher's bag because Johnson's sealing device is equivalent to the sealing devices provided by Thatcher and Ward. Each of Thatcher and Ward discloses a bag formed from two films having fused perimeters. Regarding claim 8, Fig. 2 of Thatcher discloses that the left film is longer than the right one.

14. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Published UK Application Number 2,266,701. The particular shape of Johnson's device would have been an obvious matter of choice.

15. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Published UK Application Number 2,266,701. The particular type of material would have been an obvious matter of choice.

16. Claims 20, 21, 23-26, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher, United States Patent No. 5,941,640 in view of Johnson, Published UK Application Number 2,266,701. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Johnson's sealing device to close Thatcher's bag because Johnson's sealing device is equivalent to Thatcher's sealing device.

17. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher, United States Patent No. 5,941,640 in view of Johnson, Published UK Application Number 2,266,701, as applied to claim 20. Furthermore, the shape of the sealer would have been an obvious matter of choice.

18. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher, United States Patent No. 5,941,640 in view of Johnson, Published UK Application Number 2,266,701, as applied to claim 20. Furthermore, the type of material from which the sealer is made would have been an obvious matter of choice.

19. Claims 9, 16, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

20. The remaining patents are cited to show other, similar bags and closures.


21. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.

23. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.

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24. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.


Stephen P. Garbe
Primary Examiner
Group 3720